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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,028	11/26/2001	Keith Firman	604-617	8246
23117	7590	02/24/2005		
NIXON & VANDERHYE, PC 1100 N GLEBE ROAD 8TH FLOOR ARLINGTON, VA 22201-4714			EXAMINER BAUSCH, SARA E L	
			ART UNIT 1634	PAPER NUMBER

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b>	<b>Applicant(s)</b>
09/992,028	FIRMAN, KEITH
<b>Examiner</b>	<b>Art Unit</b>
Sarae Bausch	1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 28 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a)  The period for reply expires \_\_\_\_ months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on 28 October 2004. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_.  
 6.  Newly proposed or amended claim(s) \_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (will be) as follows:  
 Claim(s) allowed: None.  
 Claim(s) objected to: None.  
 Claim(s) rejected: 2-15 and 29-32.  
 Claim(s) withdrawn from consideration: 1, 16-28.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
 See Continuation Sheet.  
 12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_.  
 13.  Other: \_\_\_\_.

  
**JEANINE A. GOLDBERG**  
**PRIMARY EXAMINER**

**CONTINUATION**

The examiner reviewing your application at the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to examiner Sarae Bausch.

1. The amendment filed 01/28/2005 under 37 CFR 1.116 in reply to the final rejection has NOT been entered. For purposes of appeal, the status of the claims is as follows:

**Rejected claim(s): 2-15, 29-32.**

**Withdrawn claim(s): 1, 16-28**

The proposed amendment to claim 2 raises new issues that would require further consideration and/or search. The phrase "wherein the enzyme remains fixed to the nucleic acid at the original binding site throughout translation, the system operating in a manner such that cleavage of the nucleic acid does not occur" as recited in the amendment to claim 2 changes the scope of the claims and requires further search and consideration. With regard to claims 31 and 32, the removal of the phrase "a linker" changes the scope of the claim and requires further search and consideration.

2. With regard to the applicants arguments directed to the rejections under 35 U.S.C. 102, all arguments are directed to the newly amended claims. As discussed above, the amendments have not been entered and therefore the arguments are moot and will not be addressed.

3. With regard to the response's traversal of claims 31 and 32, rejected under 35 U.S.C 112, 1<sup>st</sup> paragraph all arguments are directed to the newly amended claims. As

discussed above, the amendments have not been entered and therefore the arguments are moot and will not be addressed.

4. With regard to the response's traversal of claims 2-15 and 29-32, rejected under 35 U.S.C 112, 2<sup>nd</sup> paragraph as being indefinite are directed to the newly amended claims. As discussed above, the amendments have not been entered and therefore the arguments are moot and will not be addressed.

5. With regard to the response's traversal of claims 31 and 32, rejected under 35 U.S.C. 103(a) as unpatentable over Yin in view of Huang, are directed to the newly amended claims. As discussed above, the amendments have not been entered and therefore the arguments are moot and will not be addressed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarae Bausch whose telephone number is (571) 272-2912. The examiner can normally be reached on M-F 10am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on (571) 272-0745. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.



Sarah Bausch, PhD.  
Examiner  
Art Unit 1634



JEANINE A. GOLDBERG  
PRIMARY EXAMINER